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Attorneys for Defendant
OTTO TRUCKING LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

v.

UBER TECHNOLOGIES, INC., *et al.*,

Defendants.

Case No.: 3:17-cv-00939-WHA

**DEFENDANT OTTO TRUCKING LLC'S
NOTICE TO JOIN AND ADOPT
DEFENDANTS UBER TECHNOLOGIES,
INC.'S AND OTTOMOTTO LLC'S BRIEF
REGARDING IMPUTATION (DKT. 784,
PARAGRAPH SIX)**

Judge: The Honorable William H. Alsup

TRIAL DATE: OCTOBER 10, 2017

1 Defendant Otto Trucking LLC (“Otto Trucking”) responds as follows to Paragraph Six of the
2 Court’s Order on Early Motions *In Limine* and Related Matters (Dkt. No. 784).

3 Otto Trucking states that knowledge from the due diligence investigation conducted by
4 Morrison & Foerster and Stroz Friedberg cannot be imputed to it under an agency theory. The Court
5 has found that Stroz Friedberg was not Otto Trucking’s agent. *See* Dkt. 670 at 6-7. Morrison &
6 Foerster did not represent Otto Trucking during the acquisition of Ottomotto by Uber, and only
7 represented Otto Trucking for a short time in this litigation. In any event, Morrison & Foerster has
8 confirmed that it did not receive the downloaded materials. *See* Dkt. No. 806 at 13-14, Dkt. No. 806-
9 3, ¶¶ 4-8.

10 With respect to the remainder of the issues raised in Paragraph Six, Otto Trucking hereby
11 joins and adopts Defendant Uber Technologies, Inc. and Ottomotto LLC’s Brief Regarding
12 Imputation (Dkt. 784, ¶ 6). (Dkt. 824) In support, Otto Trucking states as follows:

- 13 1. On June 12, 2017, the Court issued its Case Management Order re Trial Preparation
14 (Dkt. No. 604) requesting, among other things, that parties file a précis regarding two
15 motions in limine that should be heard in advance of the pretrial conference.
- 16 2. Defendants Uber and Ottomotto timely filed a response on June 16, 2017 (Dkt. No.
17 641), which Otto Trucking joined (Dkt No. 643).
- 18 3. Thereafter, the Court scheduled a case management conference for June 29, 2017, and
19 requested briefing on a number of issues relating to motions *in limine*. Dkt. Nos. 664,
20 693.
- 21 4. Following the case management conference, the Court issued its Order on Early
22 Motions *In Limine* and Related Matters. Dkt. No. 784.
- 23 5. Otto Trucking joins and adopts Co-Defendants’ Brief in order to best serve justice and
24 avoid unnecessary or duplicative effort, time, or expense to the parties involved.

25 WHEREFORE, Defendant Otto Trucking LLC hereby joins and adopts Defendants Uber
26 Technologies, Inc. and Ottomotto LLC’s Brief Regarding Imputation (Dkt. 784, ¶ 6).

1 Dated: July 7, 2017

Respectfully submitted,

2 By: /s/ Rachel M. Walsh

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24 OTTO TRUCKING LLC
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on July 7, 2017. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 7th day of July 2017.

/s/ Rachel M. Walsh
RACHEL M. WALSH